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GOOGLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 3:10-cv-03561-WHA

**DECLARATION OF REID MULLEN IN
SUPPORT OF JOINT
ADMINISTRATIVE MOTION TO SEAL**

Judge: Hon. William Alsup

Date Comp. Filed: October 27, 2010

Trial Date: October 31, 2011

1 I, Reid Mullen, declare as follows:

2 1. I am an associate in the law firm of Keker & Van Nest LLP, counsel to Google
3 Inc. (“Google”) in the present case. I submit this declaration in support of the parties’ Joint
4 Administrative Motion to Seal. I have knowledge of the facts set forth herein, and if called to
5 testify as a witness thereto could do so competently under oath.

6 2. Portions of Google’s Motions *in Limine* Nos. 1-5 quote or describe material that
7 Google has designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
8 ATTORNEY’S EYES ONLY” pursuant to the Order Approving Stipulated Protective Order
9 Subject to Stated Conditions [Dkt. No. 68] governing this case. Google does not disclose the
10 designated material (described in further detail below) to the public in the normal course of
11 business. Disclosure of this material would cause great and undue harm to Google’s business.

12 3. Portions of Oracle’s Motions *in Limine* Nos. 1-5 quote or describe material that
13 Google has designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
14 ATTORNEY’S EYES ONLY” pursuant to the Order Approving Stipulated Protective Order
15 Subject to Stated Conditions [Dkt. No. 68] governing this case. Google does not disclose the
16 designated material (described in further detail below) to the public in the normal course of
17 business. Disclosure of this material would cause great and undue harm to Google’s business.

18 4. Portions of Oracle’s Oppositions to Google’s Motions *in Limine* Nos. 1-5 quote or
19 describe material that Google has designated as “CONFIDENTIAL” or “HIGHLY
20 CONFIDENTIAL – ATTORNEY’S EYES ONLY” pursuant to the Order Approving Stipulated
21 Protective Order Subject to Stated Conditions [Dkt. No. 68] governing this case. Google does
22 not disclose the designated material (described in further detail below) to the public in the
23 normal course of business. Disclosure of this material would cause great and undue harm to
24 Google’s business.

25 5. Exhibit E to the Declaration of Daniel P. Muino in Support of Oracle America,
26 Inc.’s Motions *in Limine* Nos. 1 through 5 (“Muino Decl.”) contains excerpts from the deposition
27 transcript of Andrew Rubin taken on July 27, 2011 in this matter. Google designated those
28 excerpts HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because they contain

1 detailed information about Google's product design and development.

2 6. Exhibit F to the Muino Decl. contains excerpts from the deposition transcript of
3 Daniel Bornstein taken on May 16, 2011 in this matter. Google designated those excerpts
4 HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY because they contain detailed
5 information about Google's product design and development.

6 7. Exhibit K to the Muino Decl. contains excerpts from the deposition transcript of
7 Patrick Brady taken on July 21, 2011 in this matter. Google designated those excerpts HIGHLY
8 CONFIDENTIAL – ATTORNEY'S EYES ONLY because they contain detailed information
9 about Google's product development.

10 8. Exhibit P to the Muino Decl. is a document produced by Google bearing bates
11 number GOOGLE-12-100000011. This document is a version of the August 6, 2010 email from
12 Tim Lindholm, which is the subject of Google's motion for relief from Magistrate Judge Ryu's
13 nondispositive pretrial order in this case. All versions of the Lindholm email and drafts thereof
14 are marked "PRIVILEGED ATTORNEY-CLIENT COMMUNICATION / ATTORNEY
15 WORK PRODUCT," and are designated as "HIGHLY CONFIDENTIAL – ATTORNEY'S
16 EYE'S ONLY" pursuant to the Order approving Stipulated Protective Order Subject to Stated
17 Conditions [Dkt. No. 68] governing this case. The Lindholm email contains privileged
18 information about Google's investigation of and potential responses to Oracle's infringement
19 claims. But even leaving aside whether the email is privileged, Google also considers the
20 information contained in the email to be highly confidential under the standard set forth in the
21 protective order in this case. Under no circumstances would Google publicly disclose during the
22 normal course of business, or absent a direct court order, any information about its litigation
23 strategy or potential responses to claims asserted against it. Public disclosure of this information
24 would cause significant and undue harm to Google's business.

25 9. Exhibit Q to the Muino Decl. contains excerpts from the deposition transcript of
26 Tim Lindholm taken on September 7, 2011 in this matter. Google designated those excerpts
27 HIGHLY CONFIDENTIAL – ATTORNEY'S EYE'S ONLY because they contain detailed
28 information about Google's product development and design and about the Lindholm email,

1 which is the subject of Google's Motion for Relief from Magistrate Judge Ryu's nondispositive
2 pretrial order in this case. For all the reasons in Paragraph 8 above, that exhibit should be sealed.

3 10. Exhibit 1-1 to the Declaration of Ruchika Agrawal in Support of Oracle America,
4 Inc.'s Oppositions to Google's Motions *in Limine* Nos. 1-5 ("Agrawal Decl.") contains excerpts
5 from the deposition transcript of Tim Lindholm. Google designated those excerpts HIGHLY
6 CONFIDENTIAL ATTORNEY'S EYES ONLY because they contain discussion of Google's
7 internal response to the threatened litigation.

8 11. Exhibit 1-2 to the Agrawal Decl. is a document produced by Google in this case
9 bearing production number GOOGLE-12-00000115. Google designated the document HIGHLY
10 CONFIDENTIAL – ATTORNEY'S EYES ONLY because it contains detailed information
11 about Google's internal product strategy.

12 12. Exhibit 1-3 to the Agrawal Decl. is a document produced by Google in this case
13 bearing production number GOOGLE-14-00001233. Google designated the document HIGHLY
14 CONFIDENTIAL – ATTORNEY'S EYES ONLY because it contains detailed information
15 about Google's internal product strategy.

16 13. Exhibit 1-4 to the Agrawal Decl. is a document produced by Google in this case
17 bearing bates numbers GOOGLE-00001772 through Google-00-00001781. Google designated
18 the document HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY because it contains
19 detailed information about Google's internal product strategy.

20 14. Exhibit 1-5 to the Agrawal Decl. is a document produced by Google in this case
21 bearing production numbers GOOGLE-12-00000472 through GOOGLE-12-00000476. Google
22 designated the document HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY because it
23 contains detailed information about Google's internal product strategy.

24 15. Exhibit 1-6 to the Agrawal Decl. is a document produced by Google in this case
25 bearing production number GOOGLE-12-00000656. Google designated the document
26 CONFIDENTIAL because it contains detailed information about Google's internal product
27 development strategy.

28 16. Exhibit 1-7 to the Agrawal Decl. is a document produced by Google in this case

bearing production number GOOGLE-12-00018231. Google designated the Document HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains detailed information about Google’s internal product strategy.

17. Exhibit 1-8 to the Agrawal Decl. is a document produced by Google in this case bearing production number GOOGLE 01-00018836. Google designated the Document HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains detailed information about Google’s internal product strategy.

18. Exhibit 1-9 to the Agrawal Decl. is a document produced by Google in this case bearing production numbers GOOGLE-12-00078864 through GOOGLE-12-00078865. Google designated the Document HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains detailed information about Google’s internal product strategy and development.

19. Exhibit 1-10 is a document produced by Google in this case bearing production number GOOGLE-12-10000011. The document is another version of the Lindholm email, which is the subject of Google’s motion for relief from Magistrate Judge Ryu’s nondispositive pretrial order in this case. For all the reasons in Paragraph 8 above, that exhibit should be sealed.

20. Exhibit 2-3 to the Agrawal Decl. is a document produced by Google in this case bearing production numbers GOOGLE-04-00055098 through GOOGLE-04-00055099. Google designated the document HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains detailed information about Google’s internal product strategy and development.

21. Exhibit 2-4 to the Agrawal Decl. contains excerpts of the transcript of the deposition of Daniel Morrill taken on July 12, 2011. Those excerpts are designated HIGHLY CONFIDENTIAL ATTORNEY’S EYES ONLY because they contain detailed nonpublic information about Google’s internal product design and development.

22. Exhibit 2-5 to the Agrawal Decl. contains excerpts from the Opening Expert Report of John C. Mitchell Regarding Patent Infringement, dated August 8, 2011. That document is designated HIGHLY CONFIDENTIAL ATTORNEY’S EYES ONLY because it contains detailed nonpublic information about Google’s product design and development.

23. Exhibit 2-14 to the Agrawal Decl. is a document produced by Google in this case

1 bearing production numbers GOOGLE-02-00465974 through GOOGLE-02-00465975. Google
2 designated the document HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it
3 contains detailed information about Google’s internal product strategy and development.

4 24. Exhibit 2-15 to the Agrawal Decl. is a document produced by Google in this case
5 bearing production numbers GOOGLE-06-00238120 through GOOGLE-06-00238121. Google
6 designated the document HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it
7 contains detailed information about Google’s internal product strategy and development.

8 25. Exhibit 2-16 to the Agrawal Decl. is a document produced by Google in this case
9 bearing production number GOOGLE-04-00083077. Google designated the document HIGHLY
10 CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains detailed information
11 about Google’s internal product strategy and development.

12 26. Exhibit 3-4 to the Agrawal Decl. is a document produced by Google in this case
13 bearing production number GOOGLE-01-00065669. Google designated the document HIGHLY
14 CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains nonpublic information
15 about Google’s business strategy.

16 27. Exhibit 3-6 to the Agrawal Decl. contains excerpts from a document produced by
17 Google in this case bearing production number GOOGLE-26-00031474–497. Google
18 designated the document HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it
19 contains nonpublic information about Google’s business strategy.

20 28. Exhibit 3-7 to the Agrawal Decl. is a document produced by Google in this case
21 bearing production number GOOGLE-01-00017222–227. Google designated the document
22 HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains nonpublic
23 information about Google’s business strategy.

24 29. Exhibit 3-8 to the Agrawal Decl. is a document produced by Google in this case
25 bearing production number GOOGLE-58-00029945. Google designated the document HIGHLY
26 CONFIDENTIAL – ATTORNEY’S EYES ONLY because it contains nonpublic information
27 about Google’s business strategy.

28 30. Exhibit 5-4 to the Agrawal Decl. contains excerpts of the transcript of the

1 deposition of Rafael Camargo, taken September 8, 2011. Those excerpts have been designated
 2 HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY, and contain detailed information
 3 about Google’s product design and development.

4 31. Exhibit 10 to the Declaration of Daniel Purcell (“Purcell Decl.”) in Support of
 5 Google’s Motions *in Limine* contains excerpts of the transcript of the deposition of John C.
 6 Mitchell, taken September 6, 2011. Those excerpts contain confidential excerpts of the
 7 Summary of Investigation for Damages Expert by Seeon Birger, dated September 12, 2011.
 8 Those excerpts are designated HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY
 9 because they contain detailed information about Google’s product design.

10 32. Exhibit 15 to the Purcell Decl. contains excerpts of the Expert Report of Dr. Iain
 11 M. Cockburn, dated September 12, 2011 and revised September 15, 2011. The excerpts contain
 12 confidential and highly confidential information about Google’s financial data.

13 33. Exhibit 30 to the Purcell Decl. contains an exhibit to the Expert Report of Dr. Iain
 14 M. Cockburn, dated September 12, 2011 and revised September 15, 2011. This exhibit contains
 15 confidential information about Google’s financial data.

16 34. Exhibit 32 to the Purcell Decl. contains an exhibit to the Expert Report of Dr. Iain
 17 M. Cockburn, dated September 12, 2011 and revised September 15, 2011. This exhibit contains
 18 confidential and highly confidential information about Google’s financial data and product
 19 development and strategy.

20
 21 I declare under penalty of perjury that the foregoing is true and correct and that this
 22 declaration was executed at San Francisco, California on October 7, 2011.

23
 24 By: /s/ Reid Mullen
 25 REID MULLEN
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 28